

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby amends Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code.

These amendments relate to the addition of health care profession students at the protected clinics. These amendments will allow for additional volunteers in protected clinics by permitting students to volunteer at the protected clinics.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable because there are students who will begin a summer session soon and wish to participate at the protected clinics.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on May 11, 2011, as the amendments confer a benefit on the students who wish to participate and on the public because additional volunteers will be provided at the protected clinics.

The State Board of Health adopted these amendments on May 11, 2011.

These amendments are also published herein under Notice of Intended Action as **ARC 9537B** to allow public comment. This emergency filing permits students to volunteer at protected clinics during their summer session of classes.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135.24.

These amendments became effective on May 11, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition of “Health care provider” in rule **641—88.2(135)**:

“*Health care provider*” means an emergency medical care provider certified pursuant to Iowa Code chapter 147A; a physician licensed pursuant to Iowa Code chapter 148; a physical therapist licensed pursuant to Iowa Code chapter 148A; an occupational therapist licensed pursuant to Iowa Code chapter 148B; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a podiatrist licensed pursuant to Iowa Code chapter 149; a chiropractor licensed pursuant to Iowa Code chapter 151; a respiratory therapist licensed pursuant to Iowa Code chapter 152B; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; an optometrist licensed pursuant to Iowa Code chapter 154; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; a speech pathologist or audiologist licensed pursuant to Iowa Code chapter 154F; or a pharmacist licensed pursuant to Iowa Code chapter 155A.

ITEM 2. Amend rule **641—88.2(135)**, definitions of “Health care services” and “Protection agreement,” as follows:

“*Health care services*” means services received from ~~an individual volunteer~~ a health care provider at a protected clinic or sponsor entity, as provided in Iowa Code section 135.24 and these rules, and approved in a protection agreement or sponsor entity agreement. The agreement covers “health care services” that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, health care provider, protected clinic, or sponsor entity must receive no compensation for any services provided under the agreement and must not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided ~~by the individual volunteer health care provider covered by the agreement~~.

“*Protection agreement*” means a signed contract providing for defense and indemnification between an individual volunteer health care provider or protected clinic and the volunteer health care provider program (VHCPP). This agreement shall allow the individual health care provider or protected clinic to deliver health care services to uninsured and underinsured persons as an agent of the state. The agreement covers “health care services” that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, health care provider, and protected clinic must receive no compensation for any services provided under the agreement and must not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided by the individual volunteer health care provider covered by the agreement.

ITEM 3. Amend paragraphs **88.3(2)“b”** and “c” as follows:

b. The protected clinic shall ~~provide~~ have provided to the department a list of all ~~individual volunteer~~ health care providers who provide health care services at the protected clinic.

c. The protected clinic shall ~~submit proof~~ have submitted proof to the department that each ~~individual volunteer~~ health care provider providing health care services at the protected clinic either:

(1) and (2) No change.

ITEM 4. Adopt the following new paragraph **88.3(2)“f”**:

f. A protected clinic may allow health care profession students to volunteer at the protected clinic provided that the following conditions are satisfied:

(1) The college, university, or other health care profession educational institution provides professional liability insurance which covers the students; and

(2) The protected clinic or the health care profession institution provides general liability and professional liability insurance which covers the students; and

(3) The students provide only those services or activities as are authorized by the education agreement, and such services and activities are provided under the on-site supervision of a health care provider.

ITEM 5. Amend paragraph **88.4(4)“a”** as follows:

a. Provide that the individual volunteer health care provider or health care provider within a sponsor entity or protected clinic shall perform only those health care services identified and approved by the VHCPP;

ITEM 6. Amend subrule 88.6(4) as follows:

**88.6(4)** The individual volunteer health care provider, health care provider, protected clinic, or sponsor entity clinic that provided the health care services receives no direct monetary compensation of any kind and no promise to pay compensation for the health care services which allegedly resulted in medical injury.

ITEM 7. Amend rule 641—88.9(135) as follows:

**641—88.9(135) Revocation of agreement.** The VHCPP may deny, suspend, revoke, or condition the protection agreement of an individual volunteer health care provider, protected clinic or sponsor entity for cause, including but not limited to:

1. to 4. No change.

5. Reasonable grounds to believe that the individual volunteer health care provider or health care provider may have provided incompetent or inadequate care to a patient under the VHCPP or is likely to do so.

6. and 7. No change.

[Filed Emergency 5/11/11, effective 5/11/11]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.